

SN 10/629,982
Docket No. S-100,613
In Response to Office Action dated 5/25/2007

REMARKS

The Office Action has been carefully reviewed. Reconsideration and allowance of the claims in light of the foregoing amendments is respectfully requested. The application is under a final rejection under 37 CFR 1.113. The amendment to claim 1 is believed to place that claim in condition for allowance and accordingly is urged to be entered.

The Office Action stated that applicants' remarks and amendments filed on 2/28/07 were sufficient to overcome the rejections set forth in the office action dated 8/2/07.

Claim 1 stands rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claim is directed toward asymmetric chiral labeled glycerol, however the compounds encompassed by the claim's description of the said labeled glycerol include compounds that are not chiral and also compounds that have more than one chiral center. For example: if no deuterium atoms are present the compound is not chiral, on the other hand if one deuterium atom is attached to carbon 1, the compound contains 2 chiral centers. The scope of claim 1 is not definite. Examiner suggests amending the claim language to correct the inconsistencies.

Applicants have amended claim 1 to clarify that there are from one to four deuterium atoms. As the examiner properly noted with zero deuterium atoms, the glycerol molecule (labeled with ^{13}C at the C2 position) would not be chiral. The applicants note that claim 1 finds support in the specification, e.g., at page 4, lines 1-5 and that the glycerol molecule at page 4, lines 1-2 includes only a single deuterium atom at carbon 1, but with no stereochemistry specified for carbon 1. Accordingly, applicants submit that the suggested indefiniteness regarding two chiral centers does not exist. In view of this amendment and these remarks, claim 1 is now urged to be allowable.

Claims 12 and 16 stand rejected under 35 U.S.C. 112, second paragraph as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The Office Action noted that it is unclear what structure was encompassed by the claims. For example, in claim 12, the applicant

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recites (1R, 2R)[1-¹³C, 1,2,3,-²H₄] glycerol. According to the name, the above compound has 4 deuterium atoms but only 3 positions for their attachment are specified. It is unclear if the error is in the number of atoms or if the positioning of the fourth deuterium has been omitted.

Applicants have amended claims 12 and 16 to clarify the position of the deuterium atoms. Support for the amendment to claim 12 can be found at page 6, lines 1-3, while support for the amendment to claim 16 can be found at page 7, lines 7-12. Withdrawal of this rejection is urged.

Claims 7 and 8 were objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

In view of the amendment to claim 1, applicants respectfully believe that claims 7 and 8 do not need to be rewritten. However, if the rejection of claim 1 is maintained, applicants would request the opportunity to rewrite claims 7 and 8 in independent form at that time including all of the limitations of the base claim and any intervening claims.

The Office Action stated that claims 2, 3, 5, 6, 9, 10, 11, 13, 14, and 15 were allowed. The closest prior art is Pitlik et al. (already of record). Pitlik et al teach a labeled (1,2- ¹³C₂, 1,1-²H₂) glycerol. However the compound of Pitlik et al is prepared as a racemic mixture and no motivation to resolve the isomers is provided.

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In view of the foregoing amendments and remarks, claims 1, 12 and 16 are urged to be allowable over 35 U.S.C. 112, 2nd paragraph. Then, the objection to claims 7 and 8 becomes moot. The other claims, i.e., 2, 3, 5, 6, 9, 10, 11, 13, 14, and 15, remain allowed. If the Examiner believes there are any unresolved issues despite this amendment, the Examiner is urged to contact the applicants' attorney undersigned below for a telephonic interview to resolve any such issue. A favorable action is solicited.

Respectfully submitted,

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